

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EARNEST WASHINGTON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent,

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No. 4:14CV1117 JCH

MEMORANDUM AND ORDER

This matter is before the Court on movant's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The Court will summarily dismiss the motion because it is successive and movant has not obtained leave from the Eighth Circuit Court of Appeals to file it.

Movant was found guilty by a jury of conspiracy to distribute heroin and conspiracy to commit murder-for-hire. United States v. Washington, 4:99CR296 (E.D. Mo.). On November 16, 2000, the Court sentenced movant to life imprisonment. Id. The Court of Appeals for the Eighth Circuit affirmed. In October 2004 movant filed his first motion to vacate under § 2255. Washington v. United States, 4:04CV1360 (E.D. Mo.). The Court denied the motion on December 29, 2005. The Court of Appeals refused to issue movant a certificate of appealability on June 11, 2007.

Movant now argues that he should be released from confinement based on the United States Supreme Court's decision in Alleyne v. United States, 133 S. Ct. 2151 (2013). Movant believes that the decision is retroactively applicable on collateral review and that it provides him relief.

Under 28 U.S.C. § 2255(h) and § 2244(b)(3)(A) movant must first receive permission from the Eighth Circuit Court of Appeals before he can bring a successive § 2255 motion in this Court. Absent certification from the Court of Appeals, this Court lacks authority under § 2255 to grant movant's requested relief. As a result, the motion will be dismissed. See 28 U.S.C. § 2255, Rule 4.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 1st day of July, 2014.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE